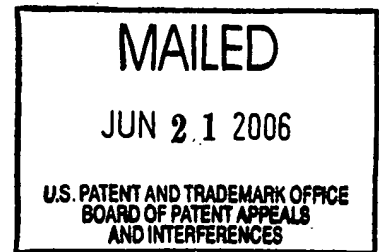


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCE

Ex parte TESSEI SHIMIZU

Application 10/698,394



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on June 14, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

Application No. 10/698,394

December 23, 2005, appellant filed an Appeal Brief. A review of the file reveals that the "Summary of Claimed Subject Matter" does not map the claimed invention to the independent claims as set forth in 37 CFR § 41.37(c)(1)(v) which states:

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

Proper correction of the Appeal Brief is required.

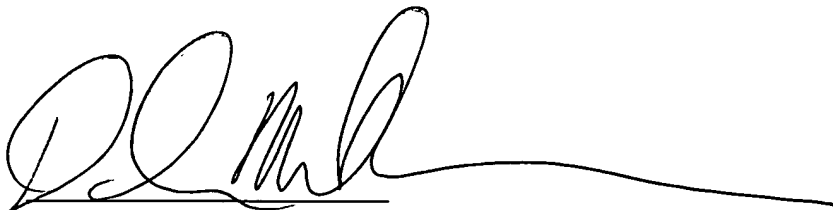
Accordingly, it is ORDERED that the application is return to the Examiner to:

- 1) hold the Appeal Brief filed on December 23, 2005, defective;
- 2) notify appellants to file a supplemental Appeal Brief compliance with 37 CFR § 41.37(c)(1)(v); and

Application No. 10/698,394

3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCE

A handwritten signature in black ink, appearing to read 'DMS', with a long horizontal flourish extending to the right.

DALE M. SHAW

Deputy Chief Appeal Administrator
(571) 272-9797

DMS:kis

cc: DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
1177 AVENUE OF THE AMERICAS (6TH AVENUE)
41 ST FL.
NEW YORK NY 10036-2714